

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 298X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN  
FREEBORN COUNTY, MINN.

Decided: June 20, 2012

This decision grants a request to extend the time to negotiate a trail use/rail banking agreement but denies a request to extend the public use condition.

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a line of railroad, known as the Hartland Subdivision, from milepost 119.65 at Curtis, to the point of connection with the Albert Lea Subdivision, and to the end of UP ownership at milepost 107.0 near Hartland, a distance of 12.65 miles, in Freeborn County, Minn. Notice of the exemption was served and published in the Federal Register on June 22, 2011 (76 Fed. Reg. 36,617). The exemption became effective on July 22, 2011.

By decision and notice of interim trail use or abandonment (NITU) served on July 21, 2011, the proceeding was reopened and a 180-day period from the service date of that decision (until January 17, 2012) was authorized for the County of Freeborn, Minn. (the County) to negotiate an interim trail use/rail banking agreement with UP for the right-of-way. That decision also permitted a 180-day period from the effective date of the abandonment exemption (until January 18, 2012) for public use negotiations under 49 U.S.C. § 10905. By decision served on January 23, 2012 (January 2012 decision), the NITU negotiating period was extended to July 15, 2012.<sup>1</sup>

By letter dated June 7, 2012, and filed on June 14, 2012, the County requests an additional 180-day extension of time for both the NITU negotiating period and the public use condition. The County states that additional time is needed to complete negotiations. In a response filed on June 11, 2012, UP states that it is willing to extend the NITU negotiating period and supports the County's request for a 180-day extension of the negotiating period under the NITU.

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended. See Rail Abans.—Use of Rights-of-Way as Trails—

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<sup>1</sup> The January 2012 decision also denied the County's request to extend the period for public use negotiations.

Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987). An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. § 1247(d). Accordingly, the NITU negotiating period will be extended for an additional 180 days, until January 11, 2013.

The County's request to extend the public use condition, however, will be denied. The public use condition expired on January 18, 2012. As noted in the January 2012 decision, it is well-settled that 180 days is the maximum period permitted by statute for a public use condition and that the condition may not be extended beyond that time. See 49 U.S.C. § 10905; 49 C.F.R. § 1152.28(b); Rail Abans.—Public Use Conditions—Revision, 8 I.C.C.2d 392, 395-98 (1992).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The County's request to extend the NITU negotiating period for an additional 180 days is granted.
2. The NITU negotiating period is extended to January 11, 2013.
3. The County's request to extend the public use condition is denied.
4. This decision is effective on its service date.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.